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July 28, 2014

Jennifer LaPoma U.S. Environmental Protection Agency, Region II 290 Broadway New York, New York 10007-1866

Via Electronic Mail

Re: LPRSA RI/FS Model – Response to July 24, 2014 Letter- Lower Passaic River Study Area (LPRSA) Administrative Agreement and Order on Consent (AOC) for Remedial Investigation/Feasibility Study (RI/FS) -CERCLA Docket No. 02-2007-2009

Dear Ms. LaPoma:

On behalf of the LPRSA Cooperating Parties Group (CPG), I am writing in response to your letter dated July 24, 2014, which directs the CPG to provide USEPA Region 2 a schedule for completion of the Newark Bay Study Area (NBSA) model by no later than July 28, 2014.

The model that the CPG is continuing to complete under the May 2007 17-mile LPRSA AOC provides substantial enhancements over Region 2's 8-mile FFS model in the LPRSA. However, as described below, additional information is needed with respect to the NBSA before a schedule for completing the model can be prepared and submitted to Region 2.

As to the LPRSA, the model reproduces patterns and data very well due in large part to the comprehensive RI data set that includes multiple bathymetry surveys, chemical and physical water column data, sediment data, benthic and pelagic community data, and tissue data. As a result, the LPRSA portion of the model when completed in the next few months will be an appropriate tool to assess remedial alternatives for the entire 17-mile LPRSA RI/FS.

Although the CPG has made improvements in the NBSA portion of the model, the CPG currently lacks data and information necessary to complete the model. The CPG is unaware of the status of planning by Region 2 and Tierra Solutions, Inc., Maxus Energy Company, and Occidental Chemical Corporation (TMO) to complete the data collection for the Newark Bay RI required to be collected by Occidental under the NBSA AOC, which has been underway since 2004. Specifically:



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- The CPG is unaware of the status of the March 2013 Newark Bay Study Area Data Gaps Report, Revision 0 prepared by TMO. The CPG reviewed and provided comments in May 2013, in which the CPG questioned whether sufficient sediment chemistry data had been collected. Sufficient sediment chemistry is necessary in order to complete the chemical fate and transport model for the NBSA portion of the model. Region 2 and TMO need to determine whether sufficient sediment data have been collected.
- Based on a conversation in 2013 between Ms. Naranjo (NBSA RPM) and myself, the CPG understands that TMO believed that the surface water chemistry data collected in Newark Bay (which was paid for by the CPG due to the failure of TMO to process invoices for such work, notwithstanding the fact that Occidental alone is the respondent to the NBSA AOC) was inadequate, and they were discussing with the Region the need for additional surface water chemistry data. The CPG is unaware of the status of this determination. Additional surface water chemistry data would have to be incorporated into the chemical fate and transport model and will impact the completion of the NBSA portion of the model.
- The CPG is also unaware of the status of the fish and benthic invertebrate tissue collection and community surveys that are planned for the NBSA. At Region 2's request, the CPG reviewed and commented on TMO's October 2013 Crab and Clam Sampling and Analysis Quality Assurance Project Plan Revision Number: 0, but has not been provided with any update regarding this work or other biological sampling data necessary to complete the bioaccumulation model. Since the fish and benthic invertebrate communities of the LPRSA and the NBSA have significant and substantial differences, the LPRSA data sets collected by the CPG in the LPRSA cannot be used in the NBSA portion of the bioaccumulation model. As such, completion of the NBSA bioaccumulation model is subject to the availability of the tissue and community data sets collected by TMO under the Region's direction.

In summary, the CPG must be provided information on the status and schedule for the remaining data collection for the NBSA RI under consideration by the Region and TMO pursuant to the NBSA AOC, which is necessary for the model to be completed, before the CPG can provide a schedule for completing the NBSA portion of the model.

The CPG further reminds EPA that TMO remains in violation of their ongoing obligations to participate in funding the RI/FS in progress under the LPRSA AOC, including relating to the modeling for both the LPRSA and Newark Bay.



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Please include this letter in the administrative record for the 17-mile LPRSA RI/FS Operable Unit of the Diamond Alkali Superfund Site.

Please contact Bill Potter or me to discuss.

Very Truly Yours, de maximis, inc.

Robert Law, Ph.D. CPG Project Coordinator

## cc:

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